

Walworth County Board of Adjustment
MINUTES

October 13, 2021 - Hearing – 9:00 AM

October 14, 2021 – Meeting – 9:00 AM

County Board Room 114

Government Center – Elkhorn, Wisconsin

A hearing and decision meeting of the Walworth County Board of Adjustment was held on October 13, 2021, and October 14, 2021, in the County Board Room of the Government Center in Elkhorn, Wisconsin. Those present on October 13, 2021, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala and Secretary Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. Those present on October 14, 2021, were Chair Ann Seaver, Vice-Chair Elizabeth Sukala, and Secretary Barbara A. Fischer. Nicholas Sigmund, Senior Zoning Officer and Wendy Boettcher, recording secretary were in attendance. “Sign-in” sheets listing attendees on October 13, 2021, and October 14, 2021, are kept on file as a matter of record.

The October 13, 2021, hearing was called to order by Chair Ann Seaver at 9:00 A.M. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Elizabeth Sukala motioned to approve the agenda as amended to postpone hearing #3: Lester Ballarin, owner / Geneva Township. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose. Barbara Fischer motioned to approve the September 8 & 9, 2021, Minutes and dispense with the reading. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose. After testimony of all cases, Elizabeth Sukala motioned to recess until 9:00 A.M. on Thursday, October 14, 2021. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The October 13, 2021, hearing went into recess at approximately 11:30 A.M.

On October 14, 2021, at 9:00 A.M., Chair Ann Seaver called the decision meeting to order. Wendy Boettcher conducted roll call and verified that there was a quorum. Those present were same as listed above. **Elizabeth Sukala motioned to approve the agenda as amended to postpone item #3: Lester Ballarin, owner / Geneva Township. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose. After the decisions were completed, Elizabeth Sukala motioned to adjourn until the November 10, 2021, hearing at 9:00 A.M. Seconded by Barbara Fischer. Motion carried. 3-favor, 0-oppose.** The October 14, 2021, decision meeting adjourned at approximately 9:31 A.M.

Seven variance hearings were scheduled and details of the October 13, 2021, hearings and the October 14, 2021, decisions are digitally recorded and available to the public upon request / video to view on our website:.

Old Business - none

New Business – Variance Petitions

Hearing – Count #9:02:27 – 9:21:42 / Decision – Count #9:01:19 – 9:04:50

The First Hearing was Delavan Lake Yacht Club, owner / Charles W. Pollard of Clair Law, applicant – Section(s) 28 – Delavan Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of a patio.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot shore yard setback.

VARIANCE REQUEST: The applicants are requesting a 42.9 foot shore yard setback. The request is a variance from Section(s) 74-174 / 74-181 of Walworth County's Code of Ordinances – Shoreland Zoning to permit the location of a patio.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Delavan Lake Yacht Club, owner / Charles W. Pollard of Clair Law, applicant, voted to APPROVE the request for a 42.9 foot shore yard setback

A motion was made by Elizabeth Sukala to approve the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in that this is a yacht club structure already existing within the shore yard area. The property is situated in such a way that water runs off surrounding lands and into the structure. The Board found that approval of the variance would allow the structural improvements needed to address the water issue as well as pest control issues. The Board found that the request was not excessive as it basically squares off the corner of the existing building. The Board found that the impervious surface added by the patio is being offset by removal of impervious surfaces on other portions of the property. The President of the Delavan Lake Yacht Club spoke in support. There was a letter of support from the Town of Delavan. There was no opposition.

Hearing – Count #9:21:53 – 9:38:22 / Decision – Count #9:05:00 – 9:10:33

The Second Hearing was Todd F. Meier, owner / Todd F. Meier, applicant – Section(s) 21 – Delavan Township

Applicant is requesting a variance from Section(s) 74-168 / 74-181 / 74-201 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence and deck.

REQUIRED BY ORDINANCE: The Ordinance requires a 5 foot setback from the north lot line and a minimum of 22 feet by 22 feet of core living area. The Ordinance prohibits obstructions more than 2.5 feet above the mean centerline roadway grades within the vision triangle at an intersection.

VARIANCE REQUEST: The applicant is requesting a 1.9 foot setback from the north lot line. The proposed residence does not have 22 feet by 22 feet of core living area. Structures are proposed within the vision triangle of two different intersections. The request is a variance from Section(s) 74-168 / 74-181 / 74-201 / 74-219 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence and deck.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Todd F. Meier, owner / Todd F. Meier, applicant, voted to APPROVE the request for a 1.9 foot setback from the north lot line, less than 22 foot by 22 foot core living area, and structures proposed within the vision triangle of two different intersections.

A motion was made by Barbara Fischer to approve the variance request for discussion. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found unique property limitations in the narrow property having three street yards, one of the streets being curved. The Board found the residence had been destroyed by fire and needs to be removed or replaced. The Board found the owner intends to build in a smaller footprint and create more permeable surface. The Board found approval would lessen obstruction in the vision triangles. The Board found to approve the variance request would help relieve the liability issues of trespassers, both human and animal. The Board found the proposal to be consistent with other development in the area. There was a letter of support from the Town of Delavan. There was no opposition.

Hearing – Count #N/A / Decision – Count #N/A

The Third Hearing was Lester Ballarin, owner / Magdalena & Lester Ballarin, applicants – Section(s) 33 – Geneva Township

Applicants are requesting a variance from Section(s) 74-165 / 74-282 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a garage.

REQUIRED BY ORDINANCE: The Ordinance requires a 25 foot street yard setback and a 25 foot rear yard setback.

VARIANCE REQUEST: The applicants are requesting a 1.5 foot street yard setback and a 13.9 foot rear yard setback. The request is a variance from Section(s) 74-165 / 74-181 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a garage.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, did not vote on the petition of Lester Ballarin, owner / Magdalena & Lester Ballarin, applicants.

BOARD OF ADJUSTMENT FINDINGS: The Board found this hearing will be POSTPONED to a later date.

Hearing – Count #9:38:29 – 10:12:36 / Decision – Count #9:10:34 – 9:14:59

The Fourth Hearing was Kelli Kiekhafer, owner / Kelli Kiekhafer, applicant – Section(s) 28 – Delavan Township

Applicant is requesting a variance from Section(s) 74-181 / 74-201 / 74-221/ 74-232 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct a residence and deck.

REQUIRED BY ORDINANCE: The Ordinance requires a 25 foot street yard setback for a residence and 19 foot street yard setback for a deck. The Ordinance prohibits obstructions more than 2.5 feet above the mean centerline roadway grades within the vision triangle at an intersection.

VARIANCE REQUEST: The applicant is requesting a 16.8 foot street yard setback for the residence and a 12.8 foot street yard setback for the deck. The deck is proposed within the vision triangle of the intersection. The request is a variance from Section(s) 74-181 / 74-201 / 74-221 / 74-232 of Walworth County's Code of Ordinances – Shoreland Zoning to construct a residence and deck.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Kelli Kiekhafer, owner / Kelli Kiekhafer, applicant, voted to DENY the request for a 16.8 foot street yard setback for the residence and a 12.8 foot street yard setback for the deck. The deck is proposed within the vision triangle of the intersection.

A motion was made by Barbara Fischer to deny the variance request. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found no unique property limitations. The Board found the owner could meet the required setbacks through redesign of the proposed residence. The Board found to deny the variance request would not cause unnecessary hardship. The Board found there was opposition from neighboring property owners. The Board found the variance request to be a want rather than a need. There were thirteen letters and two printed text messages in support. There were seven letters of opposition. There was a letter of opposition from the Town of Delavan.

Hearing – Count #10:12:45 – 10:45:45 / Decision – Count #9:15:05 – 9:20:35

The Fifth Hearing was Floyd J. Pochowski, owner / Floyd J. Pochowski, applicant – Section(s) 34 – La Grange Township

Applicant is requesting a variance from Section(s) 74-181 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to create a vacant lot to be used as a building site out of two substandard lots that have been developed as one parcel.

REQUIRED BY ORDINANCE: The Ordinance allows a substandard lot to be used as a building site if structures have never been placed partly upon an adjacent lot. The Ordinance requires a minimum of 40,000 square feet of area for a new standard sized lot.

VARIANCE REQUEST: The applicant is requesting to create a 20,529 square foot lot with the existing buildings and a 13,637 square foot vacant, buildable lot. The request is a variance from Section(s) 74-181 / 74-221 of Walworth County's Code of Ordinances – Shoreland Zoning to create a vacant lot to be used as a building site out of two substandard lots that have been developed as one parcel.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Floyd J. Pochowski, owner / Floyd J. Pochowski, applicant, voted to APPROVE the request to create a 20,529 square foot lot with the existing buildings and a 13, 637 square foot vacant lot.

A motion was made by Elizabeth Sukala to approve the variance request. Seconded by Barbara Fischer. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found the property consists of two parcels currently. The Board found the location of the house straddling the parcel lines creates this issue. The Board found the house existed prior to the current owner taking ownership. The Board found the property to be significantly larger than surrounding properties. The Board found to approve the variance request would allow the resulting parcels to be a better fit with surrounding properties. The Board found to approve the request would allow the existing residence to be on one parcel instead of straddling two parcels. The Board found to approve the request is not creating another new lot, but rather adjusting an existing lot line. The Board found to approve the variance request would not harm the public's interest in navigable waters. One person spoke in support. There was an e-mail in support from the Town of La Grange. There was no opposition.

Hearing – Count #10:45:55 – 11:11:53 / Decision – Count #9:10:43 – 9:26:17

The Sixth Hearing was Haus Am See Trust, owner / Attorney Charles W. Pollard, Clair Law, applicant – Section(s) 32 – Delavan Township

Applicants are requesting a variance from Section(s) 74-165 / 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct fences.

REQUIRED BY ORDINANCE: The Ordinance requires a 75 foot setback from the ordinary high water mark.

VARIANCE REQUEST: The applicants are requesting to be as close as 0 feet to the ordinary high water mark while also staying outside of the floodplain. The request is a variance from Section(s) 74-165 / 74-174 of Walworth County's Code of Ordinances – Shoreland Zoning to construct fences.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Haus Am See Trust, owner / Attorney Charles W. Pollard, Clair Law, applicant, voted to DENY the request to be as close as 0 feet to the ordinary high water mark while also staying outside of the floodplain.

A motion was made by Barbara Fischer to deny the variance request for discussion. Seconded by Elizabeth Sukala for discussion. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found the property to be uniquely situated between a HOA park and a public access way with an adjacent commercial property. The Board found no unnecessary hardship. The Board found the fence was unlikely to eliminate all of the trespassing and found the owner had other options that could be pursued. The Board found the owner might ask the HOA for help to alleviate the trespassing. The Board found the owner could contact law enforcement for help. The Board found the owner has the option to use landscaping and vegetation to create a natural barrier to deter people from crossing her property. The Board found vegetative plantings would preserve natural shoreline beauty. The Board found the fences would be a harm to the public interest by not preserving a natural shoreline appearance. There was a letter of support from the Town of Delavan. There was no opposition.

Hearing – Count #11:12:02 – 11:29:13 / Decision – Count #9:26:22 – 9:29:13

The Seventh Hearing was Susan Davies Trust, owner / Susan Davies Trust, applicant – Section(s) 25 – La Grange Township

Applicants are requesting a variance from Section(s) 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct an addition to a residence.

REQUIRED BY ORDINANCE: The Ordinance requires a 47.87 foot shore yard setback.

VARIANCE REQUEST: The applicants are requesting a 43.63 foot shore yard setback. The request is a variance from Section(s) 74-174 / 74-181 / 74-219 / 74-221 of Walworth County’s Code of Ordinances – Shoreland Zoning to construct an addition to a residence.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of October 13 & 14, 2021, for the petition of Susan Davies Trust, owner / Susan Davies Trust, applicant, voted to APPROVE the request for a 43.63 foot shoreyard setback.

A motion was made by Barbara Fischer to approve the variance request. Seconded by Elizabeth Sukala. Motion carried. 3-favor 0-oppose

BOARD OF ADJUSTMENT FINDINGS: The Board found a unique property limitation in the shoreline along this parcel being a very acute angle. The Board found to approve the variance would allow for construction of the proposed addition with less impervious surface added and less disturbance to trees and landscaping than other options for construction of the addition. The Board found to approve the request would cause no harm to public interests. The Board found the proposed addition will not obscure views. The Board found the request to be a small increment of relief. The Board found the Town had supported the request. The Board found to approve the request does not harm the public’s interest in navigable waters. A neighboring property owner spoke in support. There were six letters of support. There was no opposition.

Other

- A. Discussion / possible action on Township correspondence – none

Staff Reports

A. Court cases update – Martin Murphy

The Board was informed Martin Murphy filed an appeal of the Walworth County Board of Adjustment's decision of September 8 & 9, 2021.

B. Distribution of reports, handouts and correspondence

Proposed discussion for next agenda

The following items were requested to be put on the November 2021 agenda, if applicable:

A. Discussion / possible action on Township correspondence

B. Court cases update

C. Distribution of reports, handouts and correspondence

BARBARA A. FISCHER
WALWORTH COUNTY BOARD OF ADJUSTMENT

These minutes are not final until approved by the Board of Adjustment at the next scheduled hearing date.